

REMARKS

The objection and rejection under 35 USC 112, second paragraph, of claim 15 should be withdrawn in light of this Amendment.

Claims 12-13, 15-17 and 19 were rejected as being obvious over Chen in view of Oikawa. Claim 14 was rejected as being obvious over Chen in view of Oikawa in view of Do. Claims 18 and 20 were rejected as being obvious over Chen in view of Oikawa in view of Bian. These rejections are respectfully traversed.

Chen qualifies as prior art under 35 USC 102(e) as the patent issued on July 6, 2004, which is after the filing date of April 22, 2004, of the pending application. However, at the time of this invention, both Chen and this invention were owned by or subject to an obligation of assignment to Seagate Technology LLC. Thus, under 35 USC 103(c),¹ Chen does not qualify as prior art for the purposes of the obviousness rejections.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

¹ 35 USC 103(c)(1) states:

(1) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 146712004900.

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Respectfully submitted,

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